

LIEBERT CASSIDY WHITMORE
A Professional Law Corporation
6033 W. Century Boulevard, Suite 500
Los Angeles, CA 90045

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ADRIANA FERNANDEZ,

Plaintiff,

v.

JAMES RAY MORRIS, HAROLD
CARTER, RAYMOND LOERA,
COUNTY OF IMPERIAL, IMPERIAL
COUNTY SHERIFF'S DEPARTMENT,
and DOES 1 - 100, inclusive,

Defendants.

CASE NO. 08-cv-0601-H (CAB)

AMENDED PROTECTIVE ORDER

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PROTECTIVE ORDER

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2 1. Disclosure and discovery activity in this action has identified confidential
3 and/or private documents and information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting or defending this litigation
5 is warranted.

6 2. The following definitions shall apply to this Stipulation and Order:

7 (a) This “action” shall refer to the action entitled *Adriana Fernandez v.*
8 *James Ray Morris, Harold Carter, Raymond Loera, County of Imperial, Imperial County*
9 *Sheriff’s Department, et al.*, which is pending in the United States District Court, for the
10 Southern District, California, (the “Court”), Case Number 08-CV-0601-H(CAB), and any
11 appeal thereof through final judgment.

12 (b) “Confidential document” shall mean any document, material or thing
13 containing confidential employment, or other similar confidential or private information
14 (as defined herein).

15 (c) “Confidential information” shall mean any employment, or other
16 similar confidential or private information not previously produced to the public or made
17 available to the public and which the parties agree or the Court determines should be
18 protected from disclosure pursuant to this Stipulation and Order. Only “Confidential
19 information” and no other information shall be designated as confidential.

20 (d) Confidential information and documents that are “Attorney’s Eyes
21 Only” shall mean information and documents that are entitled to heightened protection
22 due to security risks that would result from public disclosure of the information or
23 documents. “Attorney’s Eyes Only” information and documents shall be viewed only by
24 counsel of record of the receiving party, and as necessary, by office staff, retained
25 experts, consultants, or investigators of counsel of record, under the conditions set forth in
26 paragraph 10 below.

27 (e) “Producing party” shall mean the person or entity producing
28 documents, information or other materials in this action.

(f) “Legend” as used herein shall mean a large bold stamp or similar insignia stating either “CONFIDENTIAL”, “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION PROTECTED BY COURT ORDER”, or “ATTORNEY’S EYES ONLY DOCUMENT CONTAINS CONFIDENTIAL INFORMATION PROTECTED BY COURT ORDER” (“ATTORNEY’S EYES ONLY”). When any document is so designated pursuant to this Stipulation and Order, the legend shall be affixed to the cover of such document.

(g) When reference is made in this Stipulation and Order to any document or party, the singular shall include the plural, and the plural shall include the singular.

3. The parties agree that the following shall constitute Confidential documents and/or information subject to the provisions of this Stipulation and Order:

(a) Administrative Investigations of any Imperial County Sheriff’s Office (“ICSO”) officer;

(b) 2007 Administrative Investigation regarding allegations against James Morris, including all audio and video-taped interviews;

(c) James Morris’ Training File;

(d) James Morris’ Pre-employment Background Investigation;

(e) Personnel files of any correctional officer of ICSO including James Morris’ Personnel File;

(f) ICSO’s Administrative Investigation into Adriana Fernandez’ written complaint to the ICSO;

(g) 2005 Administrative Investigation regarding allegations against James Morris;

(h) 2007-2008 Administrative Investigation regarding Brenda-Flores-Nunez’ allegations against Corban Dillion, including all audio and video-taped interviews;

(i) Administrative Investigation regarding allegations against Saul Lazaro;

1 (j) Inmate Records; and

2 (k) Correctional officer and inmate medical records.

3 Duplicate copies of documents designated as Confidential shall also be treated as
4 confidential, irrespective of the files in which they are contained or the Bates numbers, if
5 any, given to the documents.

6 4. The Parties agree that the following shall constitute Confidential
7 “Attorney’s Eyes Only” documents and/or information subject to the provisions of this
8 Stipulation and Order:

9 (a) The names, addresses and telephone numbers of inmates;

10 (b) The documents relating to Adriana Fernandez produced by the
11 United States Probation Office, in response to an order granting permission to answer
12 subpoena; and

13 (c) Any diagram of the Imperial County Jail.

14 Duplicate copies of documents designated as “Attorney’s Eyes Only” shall also be
15 treated as “Attorney’s Eyes Only” irrespective of the files in which they are contained or
16 the Bates numbers, if any, given to the documents

17 5. Additional documents may be designated “Confidential” or “Attorney’s Eyes
18 Only” pursuant to written agreement of the Parties. This Stipulation and Order does not
19 waive a party’s right to subsequently challenge any other party’s designation of any
20 document as “Confidential” or constitute an admission that any document designated as
21 Confidential is in fact Confidential or entitled to protection as a Confidential document.

22 6. All documents that are designated “Confidential” shall be used for purposes
23 of discovery, motions, briefs, expert review, the trial and preparation for trial in this
24 action, and on appeal, if any, and for no other purpose whatsoever, and consistent with all
25 other limitations set forth herein.

26 7. Except as set forth herein, Confidential documents, all copies thereof, and
27 any summaries, charts or notes made there from, and any facts or information contained
28 therein or derived there from, shall be disclosed only to the Court and/or to:

(d) the parties hereto and their agents and employees;

(e) counsel for the parties hereto and their agents, employees, paralegals, or other secretarial and clerical employees or agents;

(f) consultants and experts retained by one or more of the parties to this action or their counsel, to assist regarding discovery, motions, briefs, the trial and preparation for trial in this action, and on appeal, if any, or any other matter, issue or proceeding related to this action;

(g) deponents and their counsel;

(h) stenographic reporters who are involved in depositions, the trial or any hearings or proceedings, or appeal, if any, before the Court in this action;

(i) potential or actual witnesses at the trial of this action;

(j) individuals who have been or are otherwise in possession of the Confidential documents.

Confidential documents may be disclosed to persons listed in (a) and (f) of this paragraph only after such person has been shown a copy of this Stipulation and Order, and has been advised of the terms and operation of this Stipulation and Order, and agrees to be bound by the terms of this Stipulation and Order in the form attached hereto as Exhibit A; provided, however, a party who has produced Confidential documents may disclose its own documents to any persons, with or without any conditions to such disclosure, as it deems appropriate.

8. In the case of Confidential documents or information based on Confidential documents revealed during a deposition, if designation of a transcript as Confidential or any portion thereof, including exhibits, is made by any party or her or his counsel to that effect on the record, or is otherwise made before the stenographer transcribing such deposition has disseminated to counsel for the parties the transcript of the deposition, the stenographer shall affix the confidential legend to the cover page and all appropriate pages of the transcript, and to each copy thereof.

9. Subject to public policy, and further court order, nothing labeled

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“Confidential” or “Attorney’s Eyes Only” shall be filed under seal, and the court shall not be required to take any action, without separate prior order by the Judge before whom the hearing or proceedings will take place, after application by the affected party with appropriate notice to opposing counsel.

10. All documents and information designated “Attorney’s Eyes Only” shall be used for purposes of providing information to counsel of record in this action, and shall only be disclosed to counsel of record in this action. Counsel of record in this action shall not disclose “Attorney’s Eyes Only” documents or information to any other person, except his or her office staff that assists with work in this action and as necessary, investigators, experts or consultants retained by counsel of record in this action. Prior to any disclosure to such office staff, investigators, experts or consultants, those individuals must sign Exhibit “A”, agreeing to be bound by this Stipulation and Protective Order and any such office staff, investigators, experts, or consultants shall not disclose any “Attorney’s Eyes Only” documents or information to any other person. Documents and information designated as “Attorney’s Eyes Only” may be filed with the Court in connection with motions and trial in this action, but due to the security issues that could result from public disclosure of certain inmate and jail information included in the “Attorney’s Eyes Only” documents and/or information, all documents and information labeled “Attorney’s Eyes Only” shall be filed or lodged in a sealed envelope marked on the outside with the title of this action, and general nature of each document within, and a statement in substantially the following form:

CONFIDENTIAL—SUBJECT TO PROTECTIVE ORDER.

THIS ENVELOPE CONTAINS THE ABOVE IDENTIFIED PAPERS FILED/LODGED BY (NAME OF PARTY) AND IS NOT TO BE OPENED NOR THE CONTENTS THEREOF DISPLAYED, EXCEPT BY THE COURT, PURSUANT TO COURT ORDER, OR BY WRITTEN STIPULATION OF THE PARTIES.

Any party may apply for any additional protections deemed prudent and necessary, or

1 seek other relief, in connection with the use of “Attorney’s Eyes Only” documents or
2 information at trial or at the hearing on any motion, in this action.

3 11. Notwithstanding anything to the contrary contained herein, all objections as to
4 the admissibility of evidence of the discovery material subject to this Stipulation and
5 Order are reserved and are not waived by any terms of this Stipulation and Order.
6 Nothing shall restrict the use of Confidential documents at trial, so long as such use is in
7 accordance with the provisions of this Stipulation and Order, unless modified by the
8 Court.

9 12. If at any time, any document or information protected by this Stipulation and
10 Order is subpoenaed by any Court, administrative or legislative body, or is requested by
11 any other person or entity purporting to have authority to require the production of such
12 information, the party whom the subpoena or other request is directed shall give written
13 notice thereof to the Producing party of that document and/or information within five (5)
14 days of the date of the subpoena or other formal request. After receipt of the notice
15 specified under this paragraph, the Producing party shall have the sole responsibility for
16 obtaining any order it believes necessary to prevent disclosure of documents designated
17 Confidential and Confidential information, as well as any “Attorney’s Eyes Only”
18 information and documents.

19 13. The termination of proceedings in this action shall not relieve the parties from
20 the obligation of maintaining the confidentiality of all Confidential or “Attorney’s Eyes
21 Only” documents and information produced and designated pursuant to this Stipulation
22 and Order, unless the Court orders otherwise. Upon the final disposition of this action,
23 including the completion or running time for any available appeals, the attorneys for the
24 parties shall return to the Producing party within thirty (30) days any documents (and all
25 copies thereof) which have been designated as “Confidential” or “Attorney’s Eyes Only”
26 and will abide by this Stipulation and Order with respect to any such information.

27 14. The attorneys in this litigation will advise their clients, consultants, experts
28 and agents of the contents of this Stipulation and Order.

EXHIBIT "A"

UNDERSTANDING AND AGREEMENT RE "STIPULATED PROTECTIVE ORDER RE CONFIDENTIAL DOCUMENTS AND ORDER THEREON"

I hereby state that I have read and received a copy of the Stipulated Protective Order re Confidential Documents and Order Thereon ("Stipulation and Order") in the action entitled *Adriana Fernandez v. James Ray Morris, Harold Carter, Raymond Loera, County of Imperial, Imperial County Sheriff's Department, et al.*, which is pending in the United States District Court, for the Southern District, California, Case Number 08-cv-0601-H(CAB). I understand the terms of the Stipulation and Order, and agree to be bound by those terms, and consent to the jurisdiction of the Court with respect to enforcement of the Stipulation and Order.

Dated: _____

Signature_____
Printed Name_____
Address

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